

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 ORDINARY ORIGINAL CIVIL JURISDICTION
 NOTICE OF MOTION NO.696 OF 2007
 IN
 SUIT NO.2429 OF 1997

Naina Deepak Kamani .. Plaintiff

vs

Janson Engineering & Trading P.Ltd & ors.Defendants

The Court Receiver
 Mrs Pushpa Kadambande .. Respondents

Ms.Sheetal Kumar with Ms M.M.Patel i/b H.H.Patel
 for Plaintiff
 Mr.J.S.Chandanani for Defendant No.7

Ms.Bina Pai, Mr.R.V.Pai i/b Mr.R.V.Kocharekar for
 Respondent no.2

CORAM : A.M.KHANWILKAR, J

DATE : 28th March, 2007

P.C.

1. This motion is ill-advised for more than one reason. In the first place, grievance that the order passed by this Court on 7th February, 2000 was on account of the fraud played by the plaintiff on this court, it does not command to me. In any case this grievance cannot be heard at the instance of defendant no.7, who participated in the earlier proceedings.

2. Be that as it may, the necessity of considering the claim of respondent no. 2, who was not before the Court when earlier order was passed, was considered right up to the apex court. The respondent no. 2 herself filed S.L.P.before the

apex Court being S.L.P.(Civil) No.3967 of 2001 which has been disposed of by order dated 29th July, 2002. The argument that the order dated 7th February, 2000 be set aside on account of the fraud played by the plaintiff by non disclosure of the interest of the respondent no.2, therefore will have to be stated to be rejected.

3. I see no propriety for entertaining this motion at the instance of the defendant no.7.

4. All questions on merits on the maintainability of the suit will be decided at the appropriate stage.

5. It is made clear that if any further application is moved at the instance of the defendant no. 7, on such unstatable plea in future, the Court may consider of imposing exemplary costs as may be warranted at the relevant time.

(A.M.Khanwilkar, J)